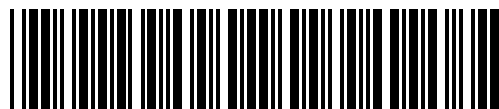




Registration of a Charge

Company Name: **BIRCH HOMES (UK) LIMITED**

Company Number: **09074166**



XBD4HAJE

Received for filing in Electronic Format on the: **23/09/2022**

Details of Charge

Date of creation: **21/09/2022**

Charge code: **0907 4166 0002**

Persons entitled: **LANDEX LIMITED**

Brief description: **LAND AT GALLOWS HILL HADLEIGH**

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **HOLLY SMITH - FOR AND ON BEHALF OF ELLISONS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9074166

Charge code: 0907 4166 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st September 2022 and created by BIRCH HOMES (UK) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd September 2022 .

Given at Companies House, Cardiff on 27th September 2022

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

We certify this to be a true copy of the original

Signature Ellisons
Ellisons Solicitors
Headgate Court 22/09/22
COLCHESTER CO1 1NP

DATED 21 September 2022

LEGAL CHARGE

relating to

Land at Gallows Hill Hadleigh

BIRCH HOMES (UK) LIMITED

and

LANDEX LIMITED



Headgate Court
Head Street
Colchester
Essex CO1 1NP
Telephone : 01206 764477 Fax: 01206 764455

THIS LEGAL CHARGE is made the 21 day of September 2022

BETWEEN

- (1) BIRCH HOMES (UK) LIMITED incorporated and registered in England and Wales with company number: 09074166 whose registered office is at Unit 22 Wharfdale Road, Ipswich, IP1 4JP ('the Developer') and
- (2) LANDEX LIMITED incorporated and registered in England and Wales with company number 05794338 whose registered office is at 19 Holywells Road, Ipswich, IP3 0DL ('the Funder').

NOW THIS DEED WITNESSES as follows:

1 Definitions

In this Legal Charge the following expressions shall have the meanings specified.

- 1.1 '1925 Act' means the Law of Property Act 1925.
- 1.2 'Costs' means all costs charges and expenses and liabilities on a full and unlimited indemnity basis incurred by the Funder (including without limitation all legal and other professional costs charges and expenses) in and incidental to and in contemplation of:
 - (a) the protection preservation realisation and enforcement of this security;
 - (b) the obligations owed to the Funder under this Deed;
 - (c) the collection or recovery of any money owing under this Deed; and
 - (d) the taking of legal proceedings in respect of any of the above.
- 1.3 "Development" has the meaning given to that term in the JVA.
- 1.4 'Development Project Expenditure' has the meaning given to that term in the JVA.
- 1.5 "Disposal" means a disposition within the meaning of section 205 of the Law of Property Act 1925 of the whole or any part or parts of the Property
- 1.6 'Event of Default' means the Developer:
 - 1.6.1.1 is in default of its obligations in the JVA ("Event of Default"); or

- 1.6.1.2 has not remedied a substantial breach of its obligations in this Legal Charge after the expiry of notice from the Funder allowing a reasonable time in which to remedy such breach.
- 1.7 “Funding” means the funding of the Development Project Expenditure provided by the Funder to the Developer pursuant to the JVA
- 1.8 ‘Event of Insolvency’ means:
 - 1.8.1 the Developer being a company:
 - 1.8.1.1 goes into liquidation whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation of a solvent company forthwith carried into effect); or
 - 1.8.1.2 is deemed unable to pay its debts as defined in Section 123 of the Insolvency Act 1986; or
 - 1.8.1.3 has a receiver manager or administrative receiver or provisional liquidator or administrator appointed; or
 - 1.8.1.4 makes or suffers to be made a proposal for a voluntary arrangement under Part I of the Insolvency Act 1986 or for a compromise or arrangement under Section 425 of the Companies Act 1985 in relation to it; or
 - 1.8.1.5 presents or suffers to be presented an application for an administration order in relation to it; or
 - 1.8.1.6 is removed from the Register of Companies; or
 - 1.8.2 the Developer being an individual or being more than one individual any one of them:
 - 1.8.2.1 presents or has presented to the court a bankruptcy petition or is in circumstances such that a bankruptcy petition could be presented under Part IX of the Insolvency Act 1986; or
 - 1.8.2.2 makes or suffers to be made a proposal for a voluntary arrangement or an application for an interim order under the Insolvency Act 1986.
- 1.9 ‘Interest’ means interest at the rate of 5.5% above the base lending rate of National Westminster Bank Plc from time to time compounded quarterly and payable both before and after any demand or judgment.

- 1.10 **'JVA'** means a joint venture agreement dated 23 June 2022 and made between (1) the Developer and (2) the Funder.
- 1.11 **'Plan'** means the plan annexed to this Legal Charge and (save as otherwise stated) any reference to a lettered or numbered plan is to the plan so lettered or numbered.
- 1.12 **'Profit Share'** means the entitlement of the Funder to any profit arising by virtue of the JVA.
- 1.13 **'Property'** all that property comprising the freehold land at Gallows Hill Hadleigh as shown edged red on the attached Plan
- 1.14 **'Receiver'** means the receiver appointed in accordance with clause 6 which expression shall where the context so admits include the plural and any substituted receiver and manager or receivers and managers.
- 1.15 **'Secured Amounts'** means all of the following:
- 1.15.1 the Profit Share;
- 1.15.2 the Funding;
- 1.15.3 all other money and liabilities now or at any time hereafter due or owing from the Developer to the Funder pursuant to the JVA and this Legal Charge (including without limitation all Costs) and the payment of Interest thereon.
- 1.16 **'Statutory Requirements'** means the requirements of any Act of Parliament or any regulation or byelaw of any local authority or government department or any other body exercising powers under statute or by Royal Charter.
- 1.17 **'Working Day'** means any day other than Saturday Sunday and any bank or public holiday.

2 Interpretation

- 2.1 The expressions 'Developer' and 'Funder' include their respective successors in title.
- 2.2 Unless the context otherwise requires references in this Legal Charge to clauses and schedules are to clauses and schedules in this Legal Charge and reference to a clause includes a sub-clause.
- 2.3 The headings to clauses and other parts of this Legal Charge are for reference only and do not affect its construction.

- 2.4 This Legal Charge and the JVA contain the whole agreement between the parties relating to the matters herein mentioned and supersedes previous agreements between them (if any) relating thereto.
- 2.5 This Legal Charge may only be varied in writing signed by or on behalf of the parties.
- 2.6 Any obligation on a party to do any act or thing includes an obligation to procure that it be done and any obligation not to do any act or thing includes an obligation not to permit or suffer that act or thing to be done by any person under its control.
- 2.7 Obligations owed by or to more than one person are owed by or to them jointly and severally.
- 2.8 A reference to a person includes an individual, a corporation, company, firm or partnership or government body or agency, whether or not legally capable of holding land.
- 2.9 Unless otherwise specified, a reference to legislation (including subordinate legislation) is to that legislation as extended, amended, modified, consolidated, or re-enacted from time to time and includes any instrument, order, regulation, permission, consent, licence, notice, direction, byelaw, statutory guidance or code of practice made or granted under such legislation.

3 Charge

- 3.1 The Developer with full title guarantee charges the Property for the Funder by way of legal mortgage as a continuing security for the payment or discharge of the Secured Amounts.
- 3.2 The Funder shall release from the Legal Charge:
 - 3.2.1 any part of the Property which is the subject of a Disposal upon payment in accordance with clauses 11 and 13 of the JVA; and
 - 3.2.2 any part of the Property which is still subject to the Legal Charge when the JVA is determined and the Funder has no further claim against the Developer.
- 3.3 The Funder and the Developer shall apply to the Registrar to enter in the register of the title to the Property a restriction in standard form N in Schedule 4 of the Land Registration Rules 2003, namely:

'No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed on behalf of Landex Limited (Company Registration No: 05794338) whose registered office is at 19 Holywells Road, Ipswich IP3 0DL or its conveyancer'.

- 3.4 When the Developer has paid all money hereby secured the Funder will at the request and cost of the Developer, duly discharge this security.

4 Developer's Covenants

The Developer hereby covenants with the Funder in the terms set out in this clause 4.

4.1 Profit Share

The Developer shall pay the Profit Share as and when due under the JVA.

4.2 Leases

The Developer shall not exercise any of the powers conferred on the Developer by Section 99 of the 1925 Act or otherwise create any tenancy or lease or part with or share the possession or occupation of or confer upon any person a contractual licence right or interest to occupy the Property or any part thereof save with the Funder's prior written consent.

4.3 Incumbrances

The Developer shall not create nor permit any incumbrance further mortgage or charge upon the Property without the previous consent in writing of the Funder such consent to be unreasonably withheld or refused.

4.4 Costs

The Developer shall pay to the Funder on demand all Costs together with Interest thereon.

4.5 Repair

The Developer shall keep all Buildings and works (whether completed or in the course of construction) in on or associated with the Property in good and substantial repair and condition and in the event of a breach of this obligation:

- 4.5.1 shall permit the Funder and its representatives to enter upon the Property at any time and execute such remedial works as the Funder considers to be necessary and proper without the Funder thereby becoming liable as mortgagee in possession;
- 4.5.2 on demand shall repay to the Funder all costs and expenses incurred by the Funder in undertaking such remedial works together with Interest from the date when the Funder incurred the same until repayment by the Funder.

5 Insurance

- 5.1 The Developer shall insure or procure that the Buildings and works (whether completed or in the course of construction) on the Property are kept insured in their full reinstatement value from time to time (plus sums in respect of any loss of rent (for not less than 2 years) and any professional fees which may be incurred in or about repair, rebuilding or reinstatement) against loss or damage by such risks as are covered:

- 5.1.1 in respect of any Buildings or works under construction: under a contractors all risks insurance policy; or
- 5.1.2 in respect of completed Buildings and works: under a comprehensive insurance policy for buildings or works of a similar nature;

In such name or names and with such underwriters as the Funder may in each case and from time to time reasonably require and to pay the premiums as and when they become due and when requested to deliver to the Funder a copy of the policy of insurance and the receipt for each premium.

- 5.2 If the Developer fails to perform any of its obligations under this sub-clause the Funder may effect such insurance on the Property as the Funder considers appropriate and the Developer will on demand repay to the Funder all payments made by it for that purpose and will pay Interest from the date from the date when the Funder incurred the same until repayment by the Funder.
- 5.3 Any money received under any policy of insurance effected or maintained by the Developer shall at the option of the Funder be applied either in making good the loss or damage in respect of which it was received or in or towards discharge of the Secured Amounts and if received by the Developer will be held on trust for the Funder for this purpose.

5.4 Rates etc

The Developer shall punctually pay and indemnify the Funder against all rents rates taxes levies assessments impositions and outgoings whatsoever (whether governmental municipal contractual or otherwise) which may be or may become imposed upon or payable in respect of the Property or any part of it.

5.5 Statutory Regulations

The Developer shall comply with all Statutory Requirements for the time being in force applicable to the Property.

5.6 Restrictive Covenants and Lettings

The Developer shall observe and perform the restrictive and other covenants and stipulations (if any) affecting the Property.

6 Default

6.1 Section 103 of the 1925 Act shall not apply to this Deed and the statutory powers of sale and of appointment of a receiver under Sections 101 and 109 of the 1925 Act (as varied and extended under this Deed) shall arise on the execution of this Deed.

6.2 The Secured Amounts shall become immediately payable upon the happening of an Event of Default or an Event of Insolvency and at any time thereafter the Funder may in addition to any other remedies available to him:

6.2.1 exercise all the statutory powers conferred on mortgagees by the Law of Property Act 1925 free from the restriction imposed by Section 103 of the 1925 Act; and

6.2.2 appoint a Receiver (subject to the requirements of general law) to be receiver and manager or receivers or managers with power to authorise any joint receiver and manager to exercise any power independently of any other joint receiver and manager of all or any part of the Property or the Development under the JVA and for the Receiver to exercise the powers set out in clause 7.

6.3 In the event of the Developer taking possession of the Property or causing a Receiver to be appointed in exercise of such statutory powers the Funder or such Receiver (in addition to his statutory powers) may eject from the Property the Developer or any tenants of the Developer or other persons at or in possession of the Property who are there otherwise than in accordance with the JVA.

7 Receiver

- 7.1 At any time after this security becomes enforceable, or at the request of the Developer, the Funder may by writing under hand appoint any person or persons to be a Receiver of all or any part of the Property.
- 7.2 The Funder may at any time and from time to time in like manner remove any Receiver so appointed and appoint another in his place or appoint an additional person as Receiver.
- 7.3 The Funder may, either at the time of appointment or at any time subsequently and from time to time, fix the remuneration of any Receiver so appointed.
- 7.4 None of the restrictions imposed by the 1925 Act in relation to the appointment of Receivers or as to the giving of notice or otherwise shall apply.
- 7.5 Where more than one Receiver is appointed they shall have the power to act severally.
- 7.6 Any Receiver so appointed shall be the agent of the Developer for all purposes and the Developer shall be solely responsible for his acts or defaults and for his remuneration.
- 7.7 Any Receiver so appointed shall have all the powers conferred on mortgagees or receivers by the 1925 Act (but without the restrictions contained in Section 103 of that Act) except to the extent to which those powers are expressly or impliedly excluded by the terms of this Deed. In the event of ambiguity or conflict the terms of this Deed will prevail.
- 7.8 In addition any Receiver so appointed shall have power at his discretion, to such extent and upon such terms as he may in his absolute discretion think fit, and notwithstanding any Event of Insolvency or death in relation to the Developer, to do or omit to do anything which the Developer could do or omit to do in relation to all or any part of the Property. In particular (but without limitation) any such Receiver shall have the power:
- 7.8.1 to take possession of, collect and get in all or any part of the Property and for that purpose to bring any proceedings in the name of the Developer or otherwise;
- 7.8.2 to manage or carry on or concur in carrying on any business of the Developer;
- 7.8.3 to raise or borrow money (whether from the Funder or otherwise) to rank for payment in priority to this security and with or without a charge on all or any part of the Property;

- 7.8.4 to sell (whether by public auction or private contract or otherwise), lease, vary, renew or surrender leases or accept surrenders of leases (without needing to observe the provisions of Sections 99 and 100 of the 1925 Act) of, or otherwise dispose of or deal with all or any part of, the Property or of rights associated with all or any part of the Property or to concur in so doing whether in the name or on behalf of the Developer or otherwise;
- 7.8.5 to seize and sever all or any fixtures at or in the Property other than and except trade machinery as defined by the Bills of Sale Act 1878 and sell the same separately from the Property or its site;
- 7.8.6 to settle, arrange, compromise or submit to arbitration any accounts, claims, questions or disputes whatsoever which may arise in connection with any business of the Developer or the Property or in any way relating to this security;
- 7.8.7 to bring, take, defend, compromise, submit to arbitration or discontinue any actions, suits or proceedings whatsoever whether civil or criminal in relation to the matters referred to in clause 7.8.6;
- 7.8.8 to disclaim, abandon or disregard all or any outstanding contracts of the Developer and to allow time for payment of any debts either with or without security;
- 7.8.9 to repair, insure, manage, protect, improve, enlarge, develop, build, complete or reconstruct or replace all or any part of the Property and to apply for and obtain any appropriate permissions approvals consents or licences;
- 7.8.10 to acquire by purchase lease or otherwise any further property assets or rights;
- 7.8.11 to appoint, employ and dismiss managers, officers, contractors and agents;
- 7.8.12 to elect to waive exemption under the Value Added Tax Act 1994 Schedule 10 paragraph 2(1) on behalf of the Developer in respect of the Property;
- 7.8.13 to do (whether in the name of the Developer or otherwise) all such other acts and things as he may consider necessary or desirable for the protection, preservation, management, improvement or realisation of the Property or as he may consider incidental or conducive to any of the above matters or to the exercise of any of the above powers.
- 7.9 All money received by any Receiver shall be applied by him:
 - 7.9.1 in payment of the costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers and of all outgoings paid by him (including preferential debts);

- 7.9.2 in payment to the Receiver of such remuneration as may be agreed between him and the Funder at, or at any time and from time to time after, his appointment;
 - 7.9.3 in or towards satisfaction of the Secured Amounts;
- and the surplus (if any) shall be paid to the Developer or other persons entitled to it.

8 Protection of Third Parties

No person dealing with the Funder or any Receiver appointed by him shall be concerned bound or entitled to enquire or be affected by notice as to any of the following matters:

- 8.1 whether this security has become enforceable;
- 8.2 whether any power exercised or purported to be exercised under this Deed has arisen or become exercisable;
- 8.3 the propriety, regularity or purpose of the exercise or purported exercise of any such power;
- 8.4 whether any money remains due under the security; or
- 8.5 the necessity or expediency of the stipulations and conditions subject to which any disposition shall be made;

and the receipt of the Funder or any Receiver for any money shall effectually discharge the person paying from such matters and from being concerned to see to the application or being answerable for the loss or misapplication of such money.

9 VAT

All sums payable under this Deed are exclusive of VAT. Accordingly the Developer will in addition pay any VAT chargeable or payable in respect of the Secured Amounts or otherwise pursuant to this Deed.

10 Miscellaneous

- 10.1 Section 93 of the 1925 Act (restricting the right of consolidation) shall not apply to this Deed.
- 10.2 The Funder may at any time or times without discharging or diminishing or in any way prejudicing or affecting this security or any right or remedy of the Funder under this mortgage grant to the Developer, or to any other person, time or indulgence, further credit, loans or advances or enter into any arrangement or variation of rights

or, either in whole or in part, release, abstain from perfecting or enforcing or neglect or fail to perfect or enforce any remedies, securities, guarantees or rights which he may now or subsequently have from or against the Developer or any other person.

10.3 Each of the provisions of this Deed is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

10.4 This deed has today been executed by the parties as a deed.

IN WITNESS whereof the parties hereto have executed this charge as a deed the day and year first before written

EXECUTED as a Deed by BIRCH HOMES

(UK) LIMITED acting by a

Director in the presence of

Director

Name:

Address:

Occupation:

EXECUTED as a Deed by LANDEX LIMITED

acting by a Director Dan Davies

in the presence of:-

DocuSigned by:
Dan Davies
F0312124FD6B478...

Director

DocuSigned by:
James Smith
20EB3B842AC44FF...

Name: James Smith

Address: 19 Holywells Road, Ipswich Suffolk IP3 0DL

Occupation: Finance Director

EXECUTED as a Deed by BIRCH HOMES

(UK) LIMITED acting by a

Director in the presence of

.....

Director

Name:

 PRETTYS SOLICITORS LLP
6TH FLOOR

Address:

ST VINCENT HOUSE
1 CUTLER STREET

Occupation:

IPSWICH
IP1 1UQ

Solicitor

EXECUTED as a Deed by LANDEX LIMITED

acting by a Director

In the presence of:-

.....

Director

Name:

Address:

Occupation:

